

# **EXHIBIT 1**

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

-----X

3 STAR AUTO SALES OF BAYSIDE,  
4 INC., ET AL.,  
5 Plaintiffs,

Civ. No. 18-CV-5775 (ERK) (CLP)

6 -against-  
7 VOYNOW, BAYARD, WHYTE AND COMPANY,  
8 LLP, ET AL.,

9 Defendants.

-----X

10 November 28, 2023

11 10:00 a.m.

12 Virtual Deposition

13 THE EXAMINATION BEFORE TRIAL of

14 DOUGLAS SOSNOWSKI, a Witness, held remotely,

15 before a shorthand reporter and Notary

16 Public within and for the State of New York.

17  
18  
19  
20  
21  
22  
23  
24  
25 Job No. CS6326406

1 Q. When did they do that?

2 A. I don't remember.

3 Q. Do you acknowledge that as of the time Voynow  
4 provided services to the plaintiffs, there was no  
5 mandate by any accounting standard or governing body  
6 that there would be engagement letters for tax  
7 engagements?

8 A. Yes.

9 Q. Do you also agree that there is no requirement  
10 in scenarios where an engagement letter is issued  
11 for a tax engagement that the letter actually be  
12 signed before the tax return can be issued?

13 A. That's correct.

14 Q. Now, page 2, September 15th of your report now.  
15 Page 10, you stated scope of accounting and tax work  
16 performed for Star Auto by Voynow was not defined in  
17 a written document prior to December of 2016. Do  
18 you see that?

19 A. Yes.

20 Q. What facts, testimony, or documents did you  
21 rely upon when you made that statement in your  
22 report?

23 A. I reviewed all documents and I didn't see any  
24 engagement letters that were ever provided, and I  
25 also spoke with Michael Koufakis and Jackie Cutillo

1           who told me that they did not exit.

2           Q.     Anything else?

3           A.     No.

4           Q.     So let's look now at your appendix, number 11  
5           and engagement letters not signed by Star. Do you  
6           see that?

7           A.     Yes.

8           Q.     There is a whole slew of documents that are  
9           Bates stamped by Voynow you listed and you have  
10          reviewed; is that correct?

11          A.     Correct.

12          Q.     And those documents, are in fact, engagement  
13          letters; is that correct?

14          A.     Yes, unsigned.

15                   MS. FITGERALD: Sorry, what was  
16          his answer?

17                   (Whereupon, the answer was read back by the  
18          stenographer.)

19          EXAMINATION BY

20          MS. FITGERALD:

21          Q.     And your statement states that there is no  
22          documentation of the services that Voynow was  
23          providing, and you acknowledge that there is, in  
24          fact, engagement letters that are issued by Voynow  
25          and you reviewed them in your appendix?

1 related to 2016, that was provided and issued by  
2 Voynow that Star has produced in this case?

3 A. Yes.

4 Q. And you believed it wasn't provided to you?

5 A. Yes.

6 Q. Were you provided with interim letters that  
7 Voynow issued to Star?

8 A. Yes.

9 Q. How many interim letters were there?

10 A. My understanding is three or four went out per  
11 year.

12 Q. What is your understanding as to the number of  
13 interim letters that you believe Voynow issued to  
14 Star?

15 A. I don't know how many were actually issued, but  
16 based on those numbers, 40 to 50.

17 Q. As part of your review were you provided with  
18 40 to 50 letters Star printed out in this case?

19 A. No.

20 Q. Were you provided with any?

21 A. I don't remember the source of them, but I was  
22 provided with interim letters.

23 MR. LABUDA: Objection.

24 To the form of the question.

25 EXAMINATION BY

1 Douglas Sosnowski 91

2 Q You made the statement that Voynow is  
3 the accountant of record, okay?

4 A Right.

5 Q I have to know. I'm the attorney on  
6 record with the court for the purposes of this  
7 case.

8 A Right.

9 Q I asked you when you referenced  
10 accountant of record, who is Voynow on record  
11 with?

12 MR. LA BUDA: Objection.

13 He can answer.

14 A With the IRS.

15 Q Was Rosenfield the accountant of  
16 record after Voynow's services were terminated?

17 A I believe so.

18 Q Is Withum Star's current accountant  
19 of record?

20 A I have no idea.

21 Q You state on page 2 of your report,  
22 number 7, that on an interim\quarterly basis  
23 Voynow made periodic visits to Star. Do you see  
24 that?

25 A Yes.

1 Douglas Sosnowski 92

2 Q Quarterly we can agree is four times  
3 a year?

4 A Yes.

5 Q Is it your opinion that Voynow  
6 visited Star four times a year during the course  
7 of its engagement?

8 A I believe I previously answered this  
9 question that it was three or four times a year.  
10 It may not have always been four times.

11 Q You used the word "interim".

12 A Yes.

13 Q What does interim versus quarterly  
14 mean?

15 A Well, interim is a more broad term.  
16 So, interim would refer to any time you went out  
17 prior to year end. It doesn't necessarily mean  
18 it's done at a specific calendar quarter.

19 If it were quarterly and under normal  
20 circumstances, you would go out in April, because  
21 that would be the month after the first quarter  
22 and you would go out in July, the month after the  
23 second quarter.

24 I don't think Voynow did that. They  
25 would show up in June or August. They were before

1 Douglas Sosnowski 93

2 year end, but not necessarily on the quarter.

3 Q You don't cite any date in the  
4 documents or report that showed you tabulated the  
5 specific dates when Voynow was actually on-site,  
6 is that correct?

7 MR. LA BUDA: Objection.

8 He can answer.

9 A Well, the time sheets I reviewed on  
10 Appendix A.

11 Q Nothing in your report lists a  
12 specific date that Voynow was on-site, correct?

13 A Well, accept for the one that one  
14 year.

15 Q To be clear, that is the January 19,  
16 2015 date you reference in page 13 of your report?

17 A Yes.

18 Q Other than that date there is nothing  
19 in your report showing when Voynow was actually  
20 on-site?

21 A Correct.

22 Q Did you understand that Voynow did  
23 not have remote access to Star's records prior to  
24 2017?

25 MR. LA BUDA: Objection.



1 Douglas Sosnowski 97

2 A That's correct.

3 Q In the case of a review engagement  
4 have you seen any of those checklists for the  
5 review engagement?

6 A Yes, I have.

7 Q That would be something that an  
8 accountant would bring when it was going on-site  
9 for purposes of review engagement, correct?

10 A He may, yes.

11 Q When you reviewed Voynow's work  
12 papers in this case, did you see any preprinted  
13 checklists?

14 A No, I don't believe they used  
15 checklists.

16 Q Did you see any inquiry work papers?

17 A No, I saw documentation that  
18 inquiries were made, but never properly  
19 documented, inquiry work papers.

20 Q When you say you saw documentation  
21 inquiries were made, is there any document you're  
22 able to identify as you sit here today?

23 A I don't remember what the specific  
24 bate stamp was on the document, but I remember  
25 that it had something to do with the PTSM scheme

1 Douglas Sosnowski 98

2 where some anomalies were discovered by Voynow and  
3 there was a notation on it that they had spoken  
4 about it with Vivian, the office manager.

5 Q You recall the testimony of Bob  
6 Seibel as part of your review on this case?

7 A Yes.

8 Q He testified that he inquired, for  
9 purposes of his tax engagement, about that PTSM  
10 entry and was told it was accrual. Do you recall  
11 that?

12 A Yes.

13 Q Other than that document is there any  
14 other document you are categorizing as an inquiry  
15 work paper?

16 A I know there were more, but none that  
17 come to mind specifically.

18 Q Did you see any documents that were  
19 specifically labeled or designated "PBC" or as  
20 prepared by client in going out work papers?

21 A No.

22 Q Did you see any documents analytical  
23 review work papers in Voynow's documents?

24 A Yes.

25 Q Which document are you referring to?

1 Douglas Sosnowski 99

2 A I do remember a trend analysis they  
3 were performing on inventory where they were  
4 comparing inventory trends to statements to prior  
5 product statements from the dealer.

6 Q That's the report you have referenced  
7 dated January 19, 2015?

8 A Yes.

9 Q Other than that document is there any  
10 other analytical review work papers contained in  
11 the documents you reviewed?

12 A No.

13 Q Did you see any engagement  
14 agreements?

15 A No. I'm sorry?

16 Q Did you see any engagement agreement  
17 in these work papers for Voynow?

18 A No.

19 Q Do you agree that for a review you  
20 would expect to see the signed engagement letter  
21 in an accountant's work papers?

22 A Yes.

23 Q Did you see any management  
24 representation letter in Voynow's work papers  
25 signed by Star?

1 Douglas Sosnowski 101

2 Q Were you provided with the tax  
3 returns that Voynow prepared as part of the  
4 year-end statement?

5 A Yes.

6 Q Did you look at those tax returns?

7 A Yes, I did.

8 Q Do you recall there were control  
9 sheets with those tax returns?

10 A I don't remember specifically.

11 Q Did you see any control sheet in  
12 Voynow's records reflecting or suggesting its  
13 engagement was a review engagement?

14 A No.

15 Q Were you provided with the sample  
16 control sheet that Voynow uses for review  
17 engagements for other clients?

18 A Yes.

19 Q You acknowledge you didn't see any  
20 type of control sheet in Voynow's records  
21 regarding Star?

22 A Correct.

23 Q At page 1 of your report you state  
24 that, "Voynow performed procedures consistent with  
25 a financial statement review but without issuing

1 Douglas Sosnowski 102

2 an accountant's report."

3 What are the specific documents that  
4 are contained in Voynow's work papers that support  
5 that statement?

6 A Well, the time sheets on what they  
7 did that document the review procedures and the  
8 work papers that are copies of the Schedules from  
9 the Reynolds and Reynolds system.

10 Q Is it your opinion that the Schedules  
11 that are printed out and contained in Voynow's  
12 work papers are indicative of performing  
13 procedures consistent with the financial statement  
14 review?

15 A Yes.

16 Q Did you consider the testimony from  
17 Voynow's accountant as to why they printed out or  
18 had those Schedules in their work papers?

19 A I did.

20 Q Did that testimony cause you to alter  
21 your opinion that Voynow was performing procedures  
22 consistent with the financial statement review?

23 A No.

24 Q You last prepared any tax returns in  
25 any capacity in 2001, is that correct?

1 Douglas Sosnowski 103

2 A No, that's incorrect.

3 Q You last prepared a tax return for an  
4 automobile dealership in 2001, is that correct?

5 A Yes.

6 (Discussion off the record.)

7 Q You stated that the timesheets  
8 support your opinion that Voynow performed  
9 procedures consistent with the financial statement  
10 review?

11 A Yes.

12 Q What specifically is it about the  
13 time sheets that you are relying upon?

14 A Well, first of all, just the volume  
15 of time that they spent on these engagements and,  
16 secondly, the time of the year that they would go  
17 out.

18 If you were doing only tax work,  
19 there would be no need to go out and perform  
20 procedures at interim dates like Voynow did.

21 Q When you say, "timesheets," you're  
22 relying upon the number of hours billed and the  
23 timing of the on-site visits by Voynow?

24 A And the descriptions.

25 Q What specific description are you

1 Douglas Sosnowski 104

2 relying upon when you make the statement that  
3 Voynow performed procedures consistent with the  
4 financial statement review?

5 A They were very vague in their  
6 descriptions, but they would say accounting  
7 services or special accounting services.

8 Q Those are billing records?

9 A Those are billing records.

10 Q All right.

11 Let me draw a distinction. There is  
12 timesheets and there is the bills. I thought you  
13 answered as to timesheets.

14 A I answered as to timesheets, yes.

15 Q All right.

16 What specific entry in the timesheets  
17 support your opinion that Voynow performed  
18 procedures consistent with the financial statement  
19 review but without issuing an accountant's report?

20 A I believe I've answered the question.

21 Q You told me they were vague.

22 A Where it says accounting services or  
23 special accounting services I believe that's how  
24 they would describe the work that was done.

25 Q All right.

1 Douglas Sosnowski 105

2 So where there are time entries or  
3 bills that do not reflect special accounting  
4 services that Voynow was not performing services  
5 that are consistent with the financial statement  
6 review?

7 MR. LA BUDA: Objection.

8 He can answer.

9 A No, I didn't say that.

10 Q Well, other than the reference to  
11 special accounting services that you indicated  
12 that are contained in bills on the timesheets what  
13 else is out there in bills or timesheets that  
14 support your statement that Voynow performed  
15 services consistent with the financial statement  
16 review?

17 A The work papers and the volume of  
18 time that they spent.

19 Q You already talked about the volume  
20 of time. What specifically in the work papers  
21 that you are relying upon when you make that  
22 statement that Voynow performed procedures  
23 consistent with the financial statement review?

24 A The analysis they performed on every  
25 schedule every time they went out there.



1 Douglas Sosnowski 107

2 A No.

3 Q Were there any Schedules that you  
4 believe support the statement that Voynow  
5 performed procedures consistent with the financial  
6 statement review? Did you see any accompanying  
7 analytical review work papers?

8 A Yes.

9 Q For which schedule?

10 A I can't recall sitting here.

11 Q Where do you recall seeing an  
12 analytical review work paper other than the trend  
13 analysis report?

14 A The trend analysis for sure, yes.

15 Q Anything else beyond that?

16 A Not that I can recall.

17 Q Is it your opinion Voynow provided  
18 internal audit services?

19 A I don't know if I said that.

20 Q I'm asking you. Do you have that  
21 opinion?

22 A No.

23 Q So page 26 of your report, number 7,  
24 you state that, "Voynow made periodic visits to  
25 Star during which time it provided review and

1 Douglas Sosnowski 108

2 controllership services."

3 A Yes.

4 Q Do you agree there is nothing in  
5 writing in any of the engagement letters that I  
6 showed you or in the engagement letter that Star  
7 acknowledges receiving wherein Voynow states it  
8 was providing controllership services?

9 MR. LA BUDA: Objection.

10 He can answer.

11 A Not in any of the documents you  
12 showed me, no.

13 Q Where in Voynow's records did you see  
14 any evidence they provided controllership  
15 services?

16 A Just, again, timesheets, billing  
17 records and their work papers.

18 Q Identify for me any specific work  
19 paper you believe is indicative of a  
20 controllership service.

21 A Anything that would show they  
22 reviewed bank statements and when they prepared  
23 general journal entries or reviewed general  
24 journal entries. Those were all controllership  
25 references.

1 Douglas Sosnowski 110

2 Q Did you see any evidence where Voynow  
3 was actually in a position to supervise Star's  
4 employees?

5 A Yes.

6 Q In what capacity? Would it be when  
7 they were physically on-site?

8 A No, they could also do it remotely.

9 Q Did you see any evidence that Voynow  
10 was supervising Star's employees while it was  
11 based in Trevose, Pennsylvania and the employees  
12 were based in Long Island?

13 A Just in the billing records.

14 Q Is there anything in the billing  
15 records that suggest that Voynow, based in  
16 Pennsylvania, is supervising employees working in  
17 Long Island?

18 A Yes.

19 Q What?

20 A I can't remember specifically as  
21 we're sitting here.

22 Q There is nothing that you cite to in  
23 your report, either a document or a deposition,  
24 that supports your opinion or your statement that  
25 Voynow was supervising Star's employees, is that

1 Douglas Sosnowski 115

2 Q So when you made the statement they  
3 were making general journal entries, that's not  
4 accurate, correct? They did not do that?

5 MR. LA BUDA: Objection.

6 A No, they developed the general  
7 entries and had somebody else input that.

8 Q When you say, "general journal  
9 entries," you're referring to adjusting general  
10 journal entries, correct?

11 A Adjusting journal entries, correct.

12 (Recess taken.)

13 (After recess, the following ensued.)

14 EXAMINATION

15 CONT'D BY MS. FITZGERALD:

16 Q Sir, at page 6 of your report you  
17 state, under the section entitled "controllorship  
18 function" that in Voynow's invoices for services  
19 rendered Voynow indicated the performance of  
20 various controllorship functions. This  
21 fundamentally changed the relationship between  
22 dealership and Voynow." Do you see that?

23 A Yes.

24 Q If I understand your statement, when  
25 Voynow issued invoices referencing what you

1 Douglas Sosnowski 122

2 entries that went into the financial statements.

3 Q So the adjusting journal entries that  
4 are referenced in Voynow's work papers is what  
5 you're referring to, correct?

6 A Correct.

7 Q Those entries were in fact recorded  
8 by Star personnel to its own books and records,  
9 correct?

10 A Correct.

11 Q You agree that other than preparing  
12 adjusting journal entries, which my client's  
13 contend were for tax purposes, Voynow did not do  
14 anything in terms of preparing Star's financial  
15 statements?

16 MR. LA BUDA: Objection.

17 You can answer.

18 A I'm unclear what your question is.  
19 They made adjusting journal entries I find other  
20 than at year end. So, they weren't for tax  
21 purposes. They were for reconciling the books and  
22 records of the company.

23 Q All right.

24 On what occasion do you recall Voynow  
25 proposing journal entries outside of the year end

1 Douglas Sosnowski 152

2 portion of that \$143,365 related to dealerships  
3 other than Toyota, Nissan, Chrysler, Subaru, and  
4 Hyundai?

5 A No, I just get a total.

6 Q There are facts figures analysis in  
7 your report breaking down that total, right?

8 A Correct.

9 Q When you state the average per  
10 dealership is \$28,673, did you just divide  
11 \$143,365 by 5?

12 A Yes.

13 Q You state in your report that the  
14 customary fee charged for preparation of a  
15 corporate tax return in New York City in 2015 was  
16 approximately \$9,700, correct?

17 A Yes.

18 Q You don't cite to any publication,  
19 journal, treatise, or survey in your report that  
20 supports that statement, correct?

21 A No, it's based on my personal  
22 knowledge.

23 Q You don't append anything in your  
24 report to support that statement?

25 A No.

1 Douglas Sosnowski 295

2 Q Assuming you're doing an  
3 investigation as opposed to preparing a tax  
4 return, correct?

5 A Well, they were looking at the  
6 schedules to try to verify numbers and the most  
7 efficient way to do that would be to look at the  
8 summary. They would know that. They're familiar  
9 with the Reynolds and Reynolds system.

10 Q Is it your opinion that Voynow was  
11 engaged to verify numbers on a schedule?

12 A They were engaged to perform various  
13 consulting procedures.

14 Q That wasn't my question.

15 MR. LA BUDA: Objection. I don't  
16 know he's finished.

17 A They were never documented in a  
18 written engagement letter.

19 Q Is it your opinion that Voynow was  
20 engaged to verify numbers on a schedule?

21 A They looked at the schedules to make  
22 sure that the schedules were properly reflecting  
23 the amounts that were going onto the tax return,  
24 but they were out there on an interim basis  
25 looking for adjustments that could be made to the

1 Douglas Sosnowski 297

2 Q Do you acknowledge that those letters  
3 explicitly state that they are not verifying the  
4 numbers that are on the tax returns?

5 A That's not what they actually did.

6 Q My question to you: Is it your  
7 position in this case that Voynow was actually  
8 engaged to verify the numbers on the schedule, yes  
9 or no?

10 MR. LA BUDA: Objection.

11 A They were engaged to verify numbers  
12 but not on the schedules. For purposes of looking  
13 at the financial statements, the monthly dealer  
14 financial statements and the income tax returns.

15 Q When an accountant is engaged to  
16 verify numbers on a financial statement, that's an  
17 audit engagement, isn't it, sir?

18 MR. LA BUDA: Objection.

19 You can answer.

20 A They didn't perform an audit. They  
21 performed consulting services.

22 There are no restrictions on  
23 procedures for consulting services. An accountant  
24 can be asked to do anything.

25 Q Where in any of the testimony or any